

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 02/16/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BENTHOS MASTER FUND, LTD.,

Petitioner,

-against-

AARON ETRA,

Respondent.

20-CV-3384 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on February 16, 2023, the parties appeared before the Court for a status conference (the “Conference”);

WHEREAS appointed counsel for Respondent Aaron Etra (“Etra”) confirmed at the Conference that she has a non-waivable conflict of interest;

WHEREAS the Criminal Justice Act attorney on duty for February 16, 2023, is Harvey Fishbein;

WHEREAS Etra confirmed at the Conference that he had failed to respond to the Court’s orders to show cause why he should not be required to pay an additional \$51,647.71 to cure his civil contempt,¹ and that he anticipated arguing that at least some of the funds the Court has required him to pay are exempt from Petitioner’s Restraining Notice;

WHEREAS Petitioner Benthos Master Fund, Ltd. (“Petitioner”) indicated at the Conference that it was not opposed to the Court granting Etra’s request for an extension to respond to its proposed forensic protocol for the examination of Etra’s devices, *see* Orders, Dkts. 263, 284, so long as Etra agrees to share the cost of the forensic examination; and

¹ This amount will be reduced if Etra demonstrates an inability to pay that sum or that any of the funds that make up that sum are exempt from Petitioner’s restraining notice. *See* Order, Dkt. 260.

WHEREAS Etra stated that, notwithstanding his failure to respond to Petitioner's information request requiring him to identify any immediate family members, he has several children;

IT IS HEREBY ORDERED that Amy Gallicchio of the Federal Defenders is relieved as counsel but must maintain custody of Etra's passport and electronic devices pending their transfer to new counsel.

IT IS FURTHER ORDERED that Harvey Fishbein is appointed as Etra's counsel for limited purposes in this civil contempt proceeding. Mr. Fishbein must take custody of Etra's passport and electronic devices from Etra's outgoing counsel by not later than **Friday, February 24, 2023**, and must confirm to the Court that he has done so by filing a letter on ECF. Mr. Fishbein is ordered promptly to review the Court's Order regarding the limited scope of this appointment, *see* Order, Dkt. 258, as well as the Court's Order regarding Etra's civil contempt and the Court's coercive sanctions, *see* Order, Dkt. 260.

IT IS FURTHER ORDERED that if Etra contends that any funds that comprise the \$145,718.49 that he has been ordered to pay in order to purge his contempt are exempt from Petitioner's Restraining Notice, he must file a brief that identifies with specificity those funds and provide evidentiary support for his position not later than **Monday, April 17, 2023**. Petitioner may respond not later than **Friday, May 5, 2023**, and Etra may reply not later than **Friday, May 26, 2023**. The appointment of Mr. Fishbein does not extend to assisting Mr. Etra with preparing his response, but he is directed to assist Mr. Etra with the mechanics of filing his brief.

IT IS FURTHER ORDERED that Etra's deadline to respond to Petitioner's proposed forensic protocol is hereby extended from Friday, February 17, 2023 to **Friday, March 3, 2023**.

Petitioner's deadline to reply is extended from Thursday, February 27, 2023 to **Friday, March 10, 2023**. In addition to responding to Petitioner's forensic protocol, Etra must (1) show cause why the Court should not grant Petitioner's request that Etra be ordered to pay part of the cost of the forensic examination of his devices; and (2) identify the names and contact information of his children. **This deadline will not be extended further.** If Etra fails to respond by March 3, 2023, the Court will (a) deem the protocol unobjected to; (b) order Etra to pay a portion of the cost of the forensic examination; and (c) order Etra to show cause he should not again be held in contempt for failure to provide the names and contact information of his children and why that information should not be added to the list of items he must produce in order to purge his contempt. The appointment of Mr. Fishbein does not extend to assisting Mr. Etra with preparing his response, but he is directed to assist Mr. Etra with the mechanics of filing his response.

The Clerk of Court is respectfully directed to mail a copy of this Order to Etra at Aaron Etra, Reg. No. 36170-510, MDC-Brooklyn, P.O. Box 329002, Brooklyn, NY 11232, and to note the mailing on the public docket.

SO ORDERED.

Date: February 16, 2023
New York, New York



VALERIE CAPRONI
United States District Judge